***COURT NO.2***

**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**WRIT PETITION NO.4298 OF 2001 (S/S)**

U.P. State Road Transport Corporation
Through its Regional Manager, Dehradun
……. Petitioner

**Versus**

1. Labour Court, Uttar Pradesh at Dehradun, District Dehradun
2. Inderpal Singh S/o Sri Hardev Singh R/o House No.0/6, Ramnagar Colony, P.O. Gurukul Kangri, Hardwar, Distt. Hardwar through Roadways Karamchari Sanyukt Parishad, Hardwar

…… Respondents

***Shri A.N. Sharma, learned counsel for the petitioner.***
***Shri Pankaj Miglani, learned counsel for Respondent No.2.***

**Dated: 05.09.2005**

**Hon'ble P.C. Verma, J.**

By means of this writ petition, the petitioner has prayed for writ of Certiorari for quashing the impugned order dated 30.08.2000 passed by Respondent No.1-Presiding Officer, Labour Court, Dehradun in Reference Case No.60 of 2000.

2. Brief facts of this case according to the petitioner are that Respondent No.2-Sri Inderpal Singh was on duty as Conductor in passenger Bus No.UMS-8494 being plied in between Hoshiyarpur to Hardwar route. A checking squad checked this bus on 13.07.1994 at the place known Phagwara and fond 18 passengers without ticket out of 23 travelling in the Bus. Thereafter, the Respondent No.2 was put under suspension vide order dated 14.07.1994 and a charge sheet was served to him and thereafter a departmental enquiry was initiated

against him after appointing enquiry officer. The enquiry officer after taking documentary as well as oral evidence came to the conclusion that the Respondent No.2 was guilty of misconduct as he has allowed 18 passengers to travel in the bus without issuing tickets despite of taking the ticket fare from these passengers before the checking squad caught him. The enquiry office therefore found that the charges framed against Respondent No.2 stand proved from the enquiry proceedings conducted by him. Thereafter, the Regional Manager served a show-cause notice dated 06.04.1996 to Respondent No.2 proposing the penalty including his dismissal form the service. The Respondent No.2 submitted his reply against the said notice dated 15.04.1996 and denied the charges of the show-cause notice in the reply. The Regional Manager, Dehradun after going through the enquiry report, documentary as well as oral evidence came to the conclusion that the Respondent No.2 was guilty of taking 18 passengers on the bus without issuing valid tickets to them and misappropriating the ticket amount. Thereafter, a detailed order dated 06.07.1996 was passed whereby the Respondent No.2 was reverted in the five years back pay scale with future effect and also fortified the balance salary of the suspended period. Being aggrieved, the Respondent No.2 thereafter raised an industrial dispute, which was decided in the following terms:-

> **"Whether the reversion order of the applicant/workman Shri Inderpl Singh, S/o Hardev Singh, Conductor by the employers from 06.07.1996 to the Basic Pay of Rs.950/- for five years is justified and/or legal? If no, to which benefit/ compensation the applicant workman is entitled and to what extent?"**

3. After the receipt of the reference, the Labour Court issued notices to the parties to file their written statement/objections. The labour court after considering the entire record of the enquiry and the oral and documentary evidence led by the parties ordered the employers to pay the wage increments and remaining salary for the suspension period to the workman with stoppage of one increment without cumulative effect. Feeling aggrieved, the petitioner has come up in the writ petition.

4. I have heard learned counsel for the parties and perused the entire material on record.

5. The employers pleaded before the Labour Court that at the time of inspection, 18 passengers were found without ticket but the learned Tribunal has rightly recorded the finding that this fact was not proved in the regular enquiry that the workman had already realized Rs.270/- form those 18 passengers and he was having any bad intention to usurp the money. The checking squad did not take the evidence of the passengers and no enquiry was done form those passengers. Hence, the Tribunal rightly held that the punishment awarded to the workman was not proportionate to the charges leveled against him and for the sake of punishment, stoppage of one increment could have been awarded to the workman. Hence, the Tribunal ordered the petitioner for payment of wage increments with back wages for the suspension period to the workman with stoppage of one increment without cumulative effect.

6. I am in full agreement with the findings recorded by learned Tribunal. I do not find any error or infirmity in the award impugned. However, in my opinion, the back wages as awarded by learned

Tribunal is grossly excessive. Hence, it is provided that the workman shall not be paid any back wages. This portion of the award of the Labour Court should be reduced to this extent only.

7. The writ petition is partly allowed. The workman shall not be paid any back wages.

**(P.C. Verma, J.)**

Rajeev Dang